

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 19696 of 1001-1003 Rhode Island Avenue NE, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use restrictions of Subtitle U § 421.1, to construct a new 18-unit apartment house in the RA-1 Zone at premises 1001-1003 Rhode Island Avenue N.E. (Square 3870, Lots 47 and 46).<sup>1</sup>

**HEARING DATES:** February 21, April 25, May 30, July 25, and October 17, 2018<sup>2</sup>  
**DECISION DATE:** October 17, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 55C (Updated); Exhibit 6 (Original).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C did not file a report to the record.

The Office of Planning ("OP") submitted a timely report recommending approval of the application, but requested that the Applicant revise its design to locate dumpsters outside of the

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<sup>1</sup> The Applicant originally proposed to construct a 23-unit apartment house, (Exhibit 7,) but later revised the project and submitted updated plans reflecting an 18-unit apartment house. (Exhibit 59A.) The caption has been revised accordingly.

<sup>2</sup> The public hearing on this application was originally scheduled for February 21, 2018, but was postponed four times at the Applicant's request. The application was heard and decided on October 17, 2018.

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building restriction line area and to reconcile inconsistencies in the elevation drawings and renderings. (Exhibit 57.) The Applicant addressed OP's concerns in its revised plans.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application, but requested continued coordination on public space issues. (Exhibit 46.) Specifically, DDOT indicated that "all elements of the project proposed in public space, including the aforementioned fencing, paving, and trash containers, as well as the building's steps, balconies, window wells, and required short-term bicycle parking rack, require the Applicant to pursue a public space permit through DDOT's permitting process." (Exhibit 46.) As noted above, the Applicant addressed certain elements in public space in its revised plans, but also acknowledged at the public hearing that it would pursue any required public space permits through the appropriate permitting process.

Raymond Chandler, a former ANC Commissioner for 5B03, submitted a letter in opposition to the project as originally proposed. (Exhibit 49.) After revisions to the Applicant's proposal were made, a petition in support signed by 34 neighbors was submitted for the record. (Exhibit 55A.) On October 17, 2018, Wayne Van Buren testified in opposition to the application, and Patricia Gray provided testimony in support.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle U § 421.1, to construct a new 18-unit apartment house in the RA-1 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 421.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law when granting an application with no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 59A, AND WITH THE FOLLOWING CONDITIONS:**

1. Construction shall be completed in conformance with the plans at Exhibit 59A, including, but not limited to, the following:

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- a. The use of brick on the main portion of the façade;
  - b. The use of a cornice at the top of the bays and the main parapet;
  - c. The bays shall terminate at the roof level, with the parapet extending above them;  
and
  - d. The parking area shall be of a pervious surface.
2. The Applicant shall provide the maximum possible number of vehicular parking spaces on site, but no less than six spaces, subject to the approval of the Public Space Committee for the areas under their jurisdiction.

**VOTE:**     **4-0-1**     (Carlton E. Hart, Lorna L. John, Lesylleé M. White, and Anthony J. Hood to Approve; Frederick L. Hill not participating)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**ATTESTED BY:**

  
**SARA A. BORDIN**  
Director, Office of Zoning

**FINAL DATE OF ORDER:** October 19, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.